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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,543	11/08/2001	Kevin L. Parsons	6548-1010.4	6806

7590 11/20/2003  
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EXAMINER

ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/010,543

Applicant(s)

PARSONS, KEVIN L.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003 & 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 15 and 28 is/are rejected.
- 7) ☒ Claim(s) 4-14, 16-27 and 29-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 & 6. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Inventorship***

1. In view of the papers filed 14 October 2003, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Lester O. Stener as a joint inventor in the application.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

### ***Election/Restrictions***

2. Applicant's election of Group I, figs. 1-10 and 12-15 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Non-elected claims 43-46 have been cancelled.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: on page 10, line 28, "7028". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Applicant is advised that should claim 3 be found allowable, claim 28 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

5. Claims 29-40 are objected to under 37 CFR 1.75 as being substantial duplicates of claims 4-8 and 18-22 (claims 39 and 40 are also substantial duplicates of claims 30 and 32, respectively). When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Ramirez. Ramirez discloses a baton carrier including a substantially cylindrical baton carrier 12 and an attachment assembly 30 coupled to the carrier via a rotatable rivet.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by either Uyehara or Dunstan et al. Each of Uyehara and Dunstan et al discloses a baton carrier and an attachment assembly (22, 51; 26, respectively) coupled to the carrier via a rotatable connection.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by the digital photograph reference submitted by Applicant in the IDS of 18 August 2003. The photograph reference evidences a baton holder and an attachment assembly rotatably coupled together with a screw and washer. With respect to claim 2, as shown in the last two photographs, a detent or recess is formed between the holder and attachment assembly insofar as claimed.

10. Claims 1-3 and 28 are rejected under 35 U.S.C. 102(a) as being anticipated by Gray. Gray discloses a holder 12 and an attachment assembly 14 rotatably coupled to the holder for removable attachment to a belt. A detent mechanism 26 as claimed is formed between the holder and assembly. No distinction is seen between the holder of Gray and that claimed as a result of the claimed intended use of the holder to hold a baton, i.e. it is believed that the holder of Gray is capable of being used to hold a baton of appropriate size.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over the digital photograph reference in view of Matthews. The photograph reference evidences all structure of the claimed carrier except an adjustable insert for the loop to accommodate different belt widths. Matthews teaches that it is known to make a belt loop on a holder with an insert 40, 42 for the purpose of allowing the holder to be used with different size belts. It would have been obvious to make the holder in the digital photograph reference with an adjustment insert as taught by Matthews to allow the holder to be used with different size belts.

***Allowable Subject Matter***

13. Claims 4-14, 16-27, 41, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

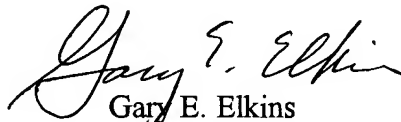
If in receiving this Office Action, it is apparent that certain documents are missing, e.g. copies of references cited, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703)306-4005.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703)308-1078.

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (703)308-1034. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (703)308-2572.

  
Gary E. Elkins  
Primary Examiner  
Art Unit 3727

gee  
17 November 2003